



## Telematics Subscription Services Agreement

### 1. Transaction Schedule

#### 1.1 WHG Telematics Pty Ltd Contact Details

You can contact us at any time by using the information provided here:	
Business Name	WHG Telematics Pty Ltd
Postal address, physical address and address for legal service delivery	Unit 33, Brooklyn Business Park, 640 Geelong Road, Brooklyn, Victoria, Australia, 3012
Phone numbers	1800 474 387
Website address	<a href="http://www.whg-telematics.com">http://www.whg-telematics.com</a>
Email address	<a href="mailto:support@whgsolutions.team">support@whgsolutions.team</a>
ABN	51 900 670 185

#### 1.2 Subscriber Contact Details

Subscriber Contact Details means those details as completed and submitted by the Installer, Fitment Centre and/or Dealer during the fitment and activation process of the Telematics Equipment when completing the online application form located at <http://www.whg-telematics.com> on behalf of the Subscriber.

#### 1.3 Asset, Service and Notification Contact Details

Asset, Service and Notification Contact Details means those details as completed and submitted during the fitment and activation process on behalf of the Subscriber, or those details as entered by the Subscriber directly into the Telematics System and Portal as added in order to receive SMS and email messages, notification alerts and reports from the Telematics Service.

#### 1.4 Subscription Period

Initial Subscription Period 12, 24 or 36 Months based on the period nominated by the Subscriber at time of purchase.

#### 1.5 Renewal Period

Renewal Period 12 Months

#### 1.6 Warranty Period

Warranty Period 12 Month



1.7 Notification Preferences

<p>The telematics functionality and features subscribed for include: *</p> <ul style="list-style-type: none"> <li>Automated Health Check</li> <li>Remote Hardware Diagnostics Support</li> <li>Early Warning Theft/ Towing Detection</li> <li>Real-Time Monitoring</li> <li>Live Mapping</li> <li>Internet Enabled Web Access</li> <li>Automated Vehicle Alerts</li> <li>Live Internet Tracking</li> <li>Location Monitoring</li> <li>GPS Satellite Positioning &amp; Tracking</li> <li>Ignition Status</li> <li>Historic Activity</li> </ul>	<ul style="list-style-type: none"> <li>Journey Playback</li> <li>Trip Distance</li> <li>Trip Speed</li> <li>Plot Locations</li> <li>Harsh Breaking</li> <li>Speed Exception Monitoring (Set Speed)</li> <li>Safe Vehicle Battery Voltage</li> <li>Vehicle Battery Health</li> <li>Vehicle Idling</li> <li>Harsh Acceleration</li> <li>Arrival &amp; Departure Monitoring</li> </ul>	<ul style="list-style-type: none"> <li>Geo-Fencing Functionality</li> <li>SMS &amp; Email Notifications</li> <li>Coverage Within Australia*</li> <li>Out Of Coverage On-Board Memory</li> <li>Satellite Imagery**</li> <li>Street View Imagery**</li> <li>Quarterly Online Training on request</li> <li>Installation Certificate on request</li> <li>Potential Insurance Savings</li> <li>(Contact your insurer directly for additional details &amp; to confirm eligibility, terms and conditions may apply)</li> </ul>
<p>Subscribed features may vary based on the hardware device installed, and/or the availability of features and functions specific to a vehicle make, model and use case.</p>		

## 2. Definitions

- 2.1.1 **Agreement** means this Telematics Subscription Service Agreement;
- 2.1.2 **Asset** means the vehicle(s), commercial machinery, plant or other movable property and equipment listed in the Transaction Schedule on page 1 and that is fitted with Telematics Equipment to which the Telematics Services apply under this Agreement;
- 2.1.3 **Asset Information Services** means the specific services selected by the Subscriber when logging into Portal for the first time and registering a Subscriber Account;
- 2.1.4 **Asset Recovery Services** means the processes described in clause 12 below, which the Subscriber can initiate on request if and when necessary, and for which costs the Subscriber will be liable. Asset Recovery Services are not included in the Telematics Service Costs;
- 2.1.5 **Commencement Date** means the date that the Subscriber opts-in to the Telematics Services by clicking "I Agree" to this Agreement as provided for in clause 33.4;
- 2.1.6 **Contact Person** means the Subscriber's contact person referred to in the Transaction Schedule on page 1 of this Agreement or such substitute(s) as notified in writing by the Subscriber from time to time;
- 2.1.7 **Dealer** means an approved person, place and/or organisation identified by Us to facilitate, support and manage the sale, registration, activation and installation of the Telematics Equipment, who may hold a relationship and communicates with the Subscriber prior to and during the Subscription period and any subsequent renewal period thereafter.
- 2.1.8 **False Alarm** means a signal from the Telematics Equipment or a communication from the Subscriber or third party that the Subscriber allows to use or possess the Asset, after which steps are taken to provide Services and where We in Our absolute discretion, determine that the relevant Services were not required;
- 2.1.9 **Fitment Centre** means an approved place and/or organisation identified by Us for the installation of the Telematics Equipment;
- 2.1.10 **Us, Our and We** means WHG Telematics Pty Ltd. ABN **95 764 527 278**, a Company registered in and subject to the law of Victoria, Australia, located at Unit 33, Brooklyn Business Park, 650 Geelong Road, Brooklyn, Victoria, Australia, 3012;
- 2.1.11 **Control Centre** means the place(s) from which signals are emitted and/or are received to provide the Telematics Services;
- 2.1.12 **Portal** means the website and/or mobile interface located at [www.whg-telematics.com.au](http://www.whg-telematics.com.au); [www.gridtraqcentral.com.au](http://www.gridtraqcentral.com.au); [www.gridtraq.com.au](http://www.gridtraq.com.au) ; and <https://default.gridtraqcentral.com/>;
- 2.1.13 **Initial Subscription Period** means the term recorded on page 1 of the Transaction Schedule on page 1 of this Agreement;
- 2.1.14 **Installer** means an approved person and/or organisation identified by Us for the installation of the Telematics Equipment;

- 2.1.15 **Notification Preferences** means alerts, notification triggers, geo location warnings, harsh acceleration, harsh breaking, speeding, battery disconnect, monitoring and similar preferences as selected by the Subscriber as applicable based on the functionality and features available as listed in the Transaction Schedule on page 1 of this agreement;
- 2.1.16 **Party or Parties** means WHG or a Party as the context requires;
- 2.1.17 **Personal Data** means information about You, the Subscriber and Your Assets(s). Personal Data includes Personal Information defined in the Privacy Act (Cth) 1988 as information or an opinion about an identified individual, or an individual who is reasonably identifiable whether the information or opinion is true or not, and whether the information or opinion is recorded in a material form or not.
- 2.1.18 **Person or Persons** means bodies corporate, unincorporated associations, partnerships and individuals;
- 2.1.19 **Renewal Period** means a period which will automatically extend the Initial Subscription Period of the Telematics Services Agreement, by a further term as recorded on page 1 of the Transaction Schedule on page 1 of this Agreement, unless terminated by Us or the Subscriber as provided for in this Agreement;
- 2.1.20 **Sign or Signature** means the handwritten signature of the duly authorised representative of Ours or the Subscriber, and the use of a click-wrap agreement where the Subscriber or duly authorised representative clicks "I Agree" as an opt-in function on an online facility provided in connection with the Telematics Services and this Agreement;
- 2.1.21 **Subscriber, You and Your** means the Person who registers or is registered as a Subscriber when activating the Subscriber Account online;
- 2.1.22 **Subscriber Account** means an online facility provided by on the Portal for Subscribers to register, subscribe to the Services, access, review and update their Telematics Services and Personal Data;
- 2.1.23 **Subscription Fee** means the full amount owing for the Telematics Services for the Subscription Period and/or an automatic debit order facility to meet monthly Subscription Fees for the Subscription Period;
- 2.1.24 **Telematics and Telematics System** means the capture of data within an Asset and the subsequent use of that data both within the Asset and remotely;
- 2.1.25 **Telematics Data** means all data and other information (whether readable by humans or not) created in Telematics and in Telematics Systems relating to a this Agreement;
- 2.1.26 **Telematics Equipment or Equipment** means an in-Asset device containing a series of sensors and inputs (comprises of hardware, firmware and software) linked to the WHG software platform and Control Centre that captures, sends, stores and analyses information electronically and which We, use to provide the Telematics Services to You, the Subscriber under this Agreement;
- 2.1.27 **Telematics Equipment Cost** means the once-off cost paid by the Subscriber to for use of the Telematics Equipment required for the Telematics Services;
- 2.1.28 **Telematics Service Cost** means the monthly cost of the Services over the Initial Subscription Period and/or the Renewal Period if applicable and recorded in the Transaction Schedule on page 1 of this Agreement;

- 2.1.29 **Telematics Service Renewal Cost** means the once-off cost paid by the Subscriber for use of the Telematics Equipment during the Renewal Period.
- 2.1.30 **Telematics Services** or **Services** means the services provided by Us set out in the Transaction Schedule on page 1 of this Agreement and confirmed by the Subscriber when registering a Subscriber Account on the Portal;
- 2.1.31 **Third Party Service Providers** include original equipment manufactures (OEMs) that provide Telematics Equipment, operators of communications networks, suppliers of mapping services, software service providers and the recovery teams used by Us to provide the Telematics Services and Asset Recovery Services;
- 2.1.32 **Transaction Schedule** means the details recorded on page 1 of this Agreement relating to the parties responsible for initiating this Agreement and which include but are not limited to motor vehicle dealers, a fitment centres and telephone sales centre; and
- 2.1.33 **Writing** or **Written** includes the functionality made available to a Subscriber to update Subscriber preferences when logged into the Subscriber Account, alphabetic symbols in ink on paper, or electronic mail (email). Writing does not include Short Message Services (SMS), also called “texting” or “chat” services.

### 3. Headings

- 3.1 Headings are included for convenience and do not affect the interpretation of this Agreement.

### 4. Interpretation

- 4.1 Unless inconsistent with the context, words relating to any gender include the other genders, words relating to the singular include the plural and vice versa, and words relating to natural persons include association of persons having corporate status by statute or common law. A reference to a clause is a reference to that clause in this Agreement.
- 4.2 If any part of a provision of this agreement is to any extent unlawful, invalid, unenforceable or in conflict with any rule of law, statute, ordinance, code or regulation (Law), the parties agree that it is their intention that to the fullest extent permitted by law, that provision (or part of the provision) is to:
- (a) replaced by a provision that is lawful, valid and enforceable and that comes closest to expressing the intention of such unlawful, invalid or unenforceable provision (or part thereof) provided that such replacement provision (or part thereof) is no longer invalid, unenforceable or in conflict with the relevant Law; but
  - (b) If that provision (or part thereof) is not able to be read down, that provision (or part of the provision) is to be excluded from this agreement; and
  - (c) The other provisions of this agreement shall remain in full force and effect.

## 5. Conditions for the Commencement of Telematics Services

### 5.1 PROVISION OF TELEMATICS SERVICES WILL NOT COMMENCE UNTIL:

- 5.1.1 YOU ACCEPT THE TERMS OF THIS AGREEMENT THROUGH DIGITAL ACCEPTANCE VIA THE DOUBLE OPT IN FUNCTION 'I AGREE', AND/OR SIGNATURE OF PRINTED AGREEMENT CONFIRMING YOUR ACCEPTANCE AS PROVIDED FOR IN CLAUSE 23.
- 5.1.2 YOU HAVE PAID IN FULL THE ONCE-OFF TELEMATICS EQUIPMENT COST TO SECURE THE USE OF TELEMATICS EQUIPMENT (THE EQUIPMENT REMAINS OUR PROPERTY AS PROVIDED FOR IN CLAUSE 21).
- 5.1.3 YOU HAVE PAID IN FULL FOR THE FITMENT OF THE TELEMATICS EQUIPMENT BY A FITMENT CENTRE INTO THE ASSET. (THIS COST MAY APPLY MORE THAN ONCE, FOR EXAMPLE WHERE THE SUBSCRIBER DESIRES TO MOVE THE TELEMATICS EQUIPMENT TO A DIFFERENT ASSET);
- 5.1.4 YOU HAVE PAID FOR THE SUBSCRIPTION PERIOD OR PROVIDED FOR AN AUTOMATIC DEBIT ORDER AUTHORITY TO MEET MONTHLY SUBSCRIPTION COSTS;
- 5.1.5 THE TELEMATICS EQUIPMENT IS PROPERLY INSTALLED IN THE ASSET(S) BY A FITMENT CENTRE, AND;
- 5.1.6 THE TELEMATICS EQUIPMENT IS PROGRAMMED, ENABLED AND FUNCTIONING IN ACCORDANCE WITH THE SPECIFICATIONS OF THE TELEMATICS SYSTEM AS DETERMINED BY US.

## 6. Appointment

- 6.1 You the Subscriber appoints Us to provide the Telematics Services in Australia. We agree to do so upon the terms and conditions set out in this Agreement.
- 6.2 INSOFAR AS IT IS NECESSARY TO ENABLE US TO PROVIDE THE SERVICES, YOU IRREVOCABLY AUTHORISE US TO TAKE CONTROL OF, TO DRIVE, TOW, RELOCATE, OPERATE OR OTHERWISE SECURE THE ASSET ON THE SUBSCRIBER'S BEHALF.

## 7. Duration of Contract and Renewal

- 7.1 This Agreement takes effect when You are registered for the Telematics Services by creating a Subscriber Account and/ or when You access the Telematics Services and opt-in to the

Telematics Services by clicking "I Agree" to this Agreement as provided for in clause 33, and continues for the Subscription Period unless terminated in accordance with this Agreement.

7.2 Either You or We can terminate this Agreement at the completion of the Subscription Period or at any time during the Renewal Period by providing not less than thirty (30) days written notice and as provided for in clauses 15 and 16.

7.3 In the event that neither We or You terminate this Agreement as provided in clauses 15 and 16, this Agreement will automatically renew for a further period as recorded on page 1 of the Transaction Schedule of this Agreement being the Renewal Period.

## **8. Your Obligations as Subscriber**

8.1 YOU WILL IMMEDIATELY NOTIFY THE CONTROL CENTRE OF ANY ACTIVATION OF THE ASSET RECOVERY SERVICES WHICH HAVE BEEN ACCIDENTALLY OR UNINTENTIONALLY ACTIVATED.

8.2 IN THE EVENT THAT THE CONTROL CENTRE RECEIVES A SIGNAL FROM THE EQUIPMENT INCLUDING THE ASSET RECOVERY SERVICE, WE WILL ENDEAVOUR TO CONTACT YOU, IN THE FIRST INSTANCE, AND THEN YOUR CONTACT PERSON BY SHORT MESSAGE SERVICE (SMS) TO THE MOBILE TELEPHONE NUMBER(S) PROVIDED IN ORDER TO VERIFY THAT THE SIGNAL WAS INTENDED. WHERE WE CANNOT REACH YOU OR YOUR CONTACT PERSON BY SMS AT THE GIVEN NUMBER, WE WILL IN OUR SOLE DISCRETION DECIDE WHETHER TO INITIATE THE ASSET RECOVERY SERVICE.

8.3 YOU ACCEPT RESPONSIBILITY FOR ALL OF THE CONSEQUENCES OF ANY UNAUTHORISED, ACCIDENTAL OR UNINTENTIONAL ACTIVATION OF THE EQUIPMENT.

8.4 YOU UNDERTAKE TO USE THE EQUIPMENT AND THE SERVICES IN A CAREFUL AND PROPER MANNER AND STRICTLY IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT AND WITH ANY OTHER LITERATURE DISTRIBUTED BY US AND RECEIVED BY YOU FROM TIME TO TIME. IF THERE IS ANY CONFLICT BETWEEN THE TERMS OF THIS AGREEMENT AND ANY OTHER ONLINE OR HARD COPY INFORMATION, THE TERMS OF THIS AGREEMENT WILL PREVAIL.

8.5 YOU WILL NOT ALTER, MODIFY OR OTHERWISE INTERFERE WITH THE EQUIPMENT OR ANY PART THEREOF IN ANY WAY WHATSOEVER. YOU WILL KEEP THE EQUIPMENT FREE FROM ANY LIEN OR CHARGE AND NOT SELL, DONATE, PLEDGE OR IN ANY OTHER MANNER ENCUMBER OR DISPOSE OF THE EQUIPMENT WHICH REMAINS OUR PROPERTY

8.6 WHERE THE SERVICES REQUIRE THE TRACKING AND RECOVERY OF ASSET(S), YOU WILL, WITHIN 12 HOURS OF SUCH SERVICE BEING PROVIDED, LODGE DETAILS OF THE RELEVANT POLICE CASE NUMBER WITH US. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS SUB-CLAUSE WILL RENDER YOU LIABLE TO US FOR THE COST OF THE ASSET RECOVERY.

8.7 YOU WILL HAVE THE FITTED EQUIPMENT TESTED BY A FITMENT CENTRE WITHIN SEVENTY-TWO (72) HOURS AFTER HAVING BEEN ADVISED BY US THAT SUCH EQUIPMENT NEEDS TO BE TESTED BUT IN ANY EVENT AT INTERVALS NOT LESS THAN EVERY TWELVE (12) MONTHS.

8.8 IT IS YOUR RESPONSIBILITY TO MAKE SURE THAT YOUR ASSET(S) AND YOUR TELEMATICS SYSTEMS ARE WORKING PROPERLY. IF YOU ARE NOT SURE THAT YOUR

SYSTEM IS FUNCTIONING PROPERLY OR THAT THEY ARE ACTIVE, YOU MUST CONTACT US TO TEST THEM AND HAVE THEM CHECKED BY A FITMENT CENTRE AS SOON AS PRACTICALLY POSSIBLE.

- 8.9 YOU ARE SOLELY RESPONSIBLE FOR ANY USE OF THE SERVICES IN YOUR ASSET, EVEN IF YOU ARE NOT THE ONE USING IT, AND EVEN IF YOU LATER CLAIM THE USE BY SOMEBODY ELSE WAS NOT AUTHORISED USE.
- 8.10 YOU ARE ALSO SOLELY RESPONSIBLE FOR THE SERVICES YOU REQUEST, AND THOSE REQUESTED BY SOMEBODY ELSE USING OR CONTROLLING YOUR ASSET. NEITHER WE NOR ANY THIRD-PARTY SERVICE PROVIDER HAS ANY OBLIGATION TO ENQUIRE ABOUT THE AUTHORITY OF ANYONE USING YOUR ASSET(S). SIMILARLY, NEITHER WE NOR ANY THIRD PARTY SERVICE PROVIDER HAS ANY OBLIGATION TO ENQUIRE ABOUT THE AUTHORITY OF ANYONE USING YOUR PERSONAL DATA THAT CAN BE USED TO IDENTIFY YOUR SUBSCRIPTION ACCOUNT OR REQUEST SERVICES FOR YOUR ASSET.
- 8.11 IF YOU OR A SOMEBODY ELSE USING OR CONTROLLING YOUR ASSET USES THE SERVICES OR TELEMATICS SYSTEM TO COMMIT A CRIME, OR FOR ANY OTHER IMPROPER PURPOSE, YOU WILL BE RESPONSIBLE FOR DAMAGES OWED BY US AS A RESULT OF SUCH USE.
- 8.12 YOU ARE ENTIRELY RESPONSIBLE FOR A TRANSACTION RESULTING FROM OR IN CONNECTION WITH YOUR USE OF THE SERVICES, AND THE USE THAT YOU MAKE OF INFORMATION RECEIVED FROM OR THROUGH ANY SERVICES. YOU ACT AT YOUR OWN RISK
- 8.13 WHEN YOU USE THE SERVICES, YOU PROMISE:
- 8.13.1 NOT TO USE THE EMERGENCY ASSISTANCE AND ROADSIDE ASSISTANCE SERVICES EXCEPT FOR EMERGENCIES AND IMMEDIATE ROADSIDE ASSISTANCE;
  - 8.13.2 NOT TO USE YOUR SERVICE FOR ANY FRAUDULENT, UNLAWFUL OR ABUSIVE PURPOSE, OR IN ANY WAY THAT INTERFERES WITH THE PROVISION OF OUR SERVICES TO OUR OTHER CUSTOMERS;
  - 8.13.3 NOT TO ABUSE OR DO ANYTHING TO DAMAGE OUR BUSINESS OPERATIONS, SERVICES REPUTATION, BRAND, EMPLOYEES, FACILITIES, OR THIRD-PARTY SERVICE PROVIDERS OF YOUR SERVICE;
  - 8.13.4 NOT TO USE ANY CONTENT YOU RECEIVE THROUGH THE SERVICES EXCEPT AS EXPRESSLY AUTHORISED BY US;



- 8.13.5 NOT TO RESELL, COPY, STORE, REPRODUCE, DISTRIBUTE, MODIFY, DISPLAY, PUBLISH, PERFORM, TRANSMIT, BROADCAST, OR CREATE DERIVATIVE WORKS FROM ANY CONTENT YOU RECEIVE THROUGH THE SERVICE;
  - 8.13.6 NOT TO USE ANY CONTENT YOU RECEIVE THROUGH OUR SERVICE FOR COMMERCIAL PURPOSES; AND
  - 8.13.7 NOT TO BREACH THE TERMS AND CONDITIONS FOR ACCESS TO THE PORTAL.
- 8.14 IF YOU DO THESE THINGS YOU AGREE THAT YOU WILL BE RESPONSIBLE FOR ANY AMOUNT THAT ANYONE ELSE CLAIMS FROM US OR OUR THIRD-PARTY SERVICE PROVIDERS, PLUS ANY EXPENSES, RESULTING IN WHOLE OR IN PART FROM THAT USE OR YOUR ACTIONS.

## 9. Electronically Locating your Asset

- 9.1 Your system includes an electronic location device that allows Us to find Your Asset under the following specific conditions, based on the functionality and features available in clause 1.7 in the Transaction Schedule on page 1 of this Agreement, and as configured by You in the Subscribers Account. These may include the following:
- 9.1.1 Automatic collision notification - if the airbag sensor is tripped or if there is a severe rear-end collision, Your system may call the Our Control Centre and record and transmit information, including Your location, so that We can provide assistance.
  - 9.1.2 Emergency assistance button - You may trigger an emergency assistance notification 24 hours a day in the event of an emergency by pressing the SOS button if your Asset is fitted with such a button. If You press an SOS button, Your Asset will send an electronic signal to the Our Control Centre which will identify Your location, and trigger a notification alert to your nominated emergency contact number, and to the Control Centre agent who responds.
  - 9.1.3 Stolen Asset location and theft - Your Asset contains an electronic location device that We might use in the event Your Asset is stolen. If we receive the information We request from You, We can try to find Your Asset. We can also share the location with local law enforcement authorities. You must contact us at the telephone number provided on page 1 of the Agreement and provide us with the information We request from you. You may include a police report to verify the report of theft and the case number. We can work with local law enforcement authorities to recover the Asset using the Asset GPS. We cannot guarantee We will find your Asset. If you do not provide us with information We request, We have the right to refuse to try and locate Your Asset.
  - 9.1.4 Locating missing persons - You may contact Us to request that we locate your Asset to assist in finding missing persons who may have use or control of them and share the location with local law enforcement authorities. You must call us at the telephone number provided on page 1 of this Agreement and provide Us with the information We request from You, which may include a police report to verify the identity of the missing person. We can then work with local law enforcement authorities to recover the Asset using the Asset GPS. We cannot guarantee we will find your Asset. If You do not provide us with the information We request, We have the right to refuse to locate Your Asset. We are not required to try to find Your Asset for the purpose of locating another person.
  - 9.1.5 If Your lessor or Asset finance company requests that We find your Asset because of alleged fraud or breach Your lease or finance obligations under a retail installment contract or Asset loan, We can try to locate Your Asset and share the location with them. They will be required to contact Us directly and provide Us with the information We request to verify the fraud or breach of Your lease, retail installment contract, or Asset loan.

## 10. Asset Recovery and Information Services

WE WILL ONLY PROVIDE THE SPECIFIC NOTIFICATIONS FROM THE NOTIFICATION PREFERENCES CLAUSE 1.7 ON PAGE 1 OF THIS AGREEMENT, AND AS CONFIGURED (tick the box from the choice offered in your subscribers account) BY YOU IN THE PORTAL,

- 10.1 YOU ACKNOWLEDGES THAT YOU MUST SELECT THE PREFERRED NOTIFICATION PREFERENCES FROM THE CHOICE OFFERED IN CLAUSE 1.7 ON PAGE 1 OF THIS

AGREEMENT. SOME OF THESE ARE DEFAULT SERVICES AND CANNOT BE EXCLUDED BY YOU.

- 10.2 As soon practically possible after the Control Centre receives an instruction from the Subscriber requesting the Asset Recovery Service, We will assist law enforcement authorities and endeavor to:
- 10.2.1 Determine the location of Your Asset, and take possession and control of the Asset.
  - 10.2.2 Drive, tow or otherwise move Your Asset to a secure location (determined secure in OUR sole discretion of ), at the cost and expense of You the Subscriber.
  - 10.2.3 Advise on the location of the Asset and/or the outcome of its efforts to track and recover the Asset.

## 11. Privacy, Personal Information, Asset Information, Asset Recovery, Telematics Services

- 11.1 YOU ACKNOWLEDGE, UNDERSTAND AND AGREE THAT ASSET INFORMATION SERVICES, ASSET RECOVERY SERVICES, TELEMATICS DATA AND PERSONAL DATA PROVIDED TO US BY THE YOU THE SUBSCRIBER, AND RECEIVED FROM THE TELEMATICS EQUIPMENT AND THIRD PARTIES IS NECESSARY FOR THE PROVISION OF THE TELEMATICS SERVICES;
- 11.2 YOU CONSENT TO INFORMATION DESCRIBED IN 11.1 BEING DISCLOSED TO THIRD PARTY SERVICE PROVIDERS AND/OR OTHER THIRD PARTIES WHERE SUCH DISCLOSURE IS NECESSARY FOR THE PERFORMANCE OF OUR OBLIGATIONS UNDER THIS AGREEMENT OR AS REQUIRED BY LAW.
- 11.3 YOU CONSENT TO US PERFORMING CREDIT CHECKS RELATING TO THE YOU AS SUBSCRIBER AS AND WHEN WE DEEM IT NECESSARY, FROM TIME TO TIME IN ANY APPLICATION FOR CREDIT FACILITIES OR CONTINUATION THEREOF. IF A CREDIT FACILITY IS APPROVED FOR YOU THE SUBSCRIBER, WE ARE FURTHER ENTITLED TO REGISTER DETAILS ABOUT THE CONDUCT OF YOUR ACCOUNT WITH ANY NATIONAL CREDIT BUREAU IN ACCORDANCE WITH THE PRIVACY ACT (CTH) 1988
- 11.4 YOU THE SUBSCRIBER ACKNOWLEDGE AND AGREE FURTHER THAT:
- 11.4.1 IN SUBSCRIBING TO THE TELEMATICS SERVICES, YOU AGREE AND ACKNOWLEDGE THAT YOU HAVE NO REASONABLE EXPECTATION OF PRIVACY, AND YOU AGREE THAT YOU ARE GRANTING CONSENT TO A LIMITATION OF YOUR PRIVACY IN EXCHANGE FOR BENEFITS SUCH AS, BUT NOT LIMITED TO, SECURITY, MANAGING RISK AND BUSINESS EFFICIENCY,;
  - 11.4.2 YOU HAVE READ AND UNDERSTOOD THE PRIVACY POLICY, AVAILABLE AT <https://www.whg-telematics.com/> AND YOU ACKNOWLEDGE AND AGREE THAT THE TERMS OF THAT PRIVACY POLICY WILL BE INCORPORATED INTO THIS CONTRACT AND WILL APPLY TO YOUR AGREEMENT WITH US .
  - 11.4.3 THE INFORMATION DERIVED FROM THE ASSET INFORMATION SERVICES, ASSET RECOVERY SERVICES, TELEMATICS DATA AND PERSONAL DATA, AS WELL AS THE AGGREGATED INFORMATION WHICH RESULTS FROM PROCESSING, ANALYSING AND IMPROVING THE TELEMATICS SERVICES IS

INTENDED TO IMPROVE ASSET AND SUBSCRIBER SECURITY AND PRODUCTIVITY.

11.5 YOU ACKNOWLEDGE AND AGREE ALSO THAT ALL INFORMATION AND DATA RECEIVED AND CREATED BY US UNDER THIS AGREEMENT AND AS A RESULT OF OUR BUSINESS PROCESSING AND ANALYSIS BECOMES ABSOLUTELY OUR PROPERTY, AND THAT SUBJECT TO THE PRIVACY ACT (CTH) 1988 AND THE PRIVACY POLICY, MAY HOLD AND USE THE DATA FOR THE PURPOSES OF THIS AGREEMENT AND FOR RELATED PURPOSES, INCLUDING THE IMPROVEMENT OF THE TELEMATICS SERVICES.

11.6 The benefits of such Services to You as a Subscriber depend on Your use of the Services.

**12. Limitations and Dependencies**

12.1 YOUR SERVICE WORKS BY USING THE GLOBAL TELECOMMUNICATIONS SYSTEM WHICH RECEIVES GLOBAL POSITIONING SYSTEM (GPS) SATELLITE SIGNALS, LOCATION SERVICES AND COMMUNICATIONS WITH OUR CONTROL CENTRE THROUGH A WIRELESS COMMUNICATION NETWORKS. WE USE A COMMERCIAL MOBILE WIRELESS SERVICE PURCHASED FROM ONE OR MORE THIRD PARTY PROVIDERS (UNDERLYING WIRELESS CARRIER). NOT ALL SERVICES ARE AVAILABLE EVERYWHERE, PARTICULARLY IN REMOTE AREAS LIKE THE AUSTRALIAN OUTBACK, OR ENCLOSED AREAS LIKE UNDERGROUND PARKING GARAGES). NEITHER CAN IT BE GUARANTEED TO WORK ON ALL ASSETS, AT ALL TIMES.

12.2 Your service has many limitations including, but not limited to, the following:

- 12.2.1 Services are sold and will function, provided connectivity is available;
- 12.2.2 Your service does not have the ability to make or receive voice calls and may only communicate electronic data as machine readable signals to Our Control Centre;
- 12.2.3 Your Asset must have a working electrical system, including adequate battery power for the Equipment to operate;
- 12.2.4 The Equipment and Asset must be maintained and in good working order and in compliance with all Australian government regulations;
- 12.2.5 The quality of Your Service may be impaired by hills, tall buildings, tunnels, weather, the electrical system design and architecture of your Asset, damage to Your Asset or wireless network congestion;
- 12.2.6 Services are not available if GPS satellite signals are not working or the signals are obstructed and programming limitations of the system may impair our ability to determine Your Asset's precise location;
- 12.2.7 The services will not work unless Your Asset is in a place where We have an agreement with an underlying wireless carrier with full service in that area, network capacity, reception when the Services are needed, and technology that is compatible with the Services.
- 12.2.8 The maps and global information service (GIS) information We provide to you is based on the most current map information available to Us, but may be inaccurate

when complete, Our routing data may not include information about one-way roads, turn restrictions, construction projects, seasonal roads and the like.

- 12.2.9 Services can fail or be delayed by acts of nature, forces or causes beyond our reasonable control, including but not limited to weather conditions and the result thereof, public utility failure, acts of war, government actions, terrorism, civil disturbances, or system failures including internet, computer, telecommunication or other system failures.
- 12.2.10 If the underlying wireless carrier terminated or restricts digital service, the Service will not be available.
- 12.3 IN THESE CIRCUMSTANCES, SOME OR ALL OF YOUR SERVICE MAY BE SUSPENDED OR THREATENED WITHOUT PRIOR NOTICE TO YOU AND OUR LIABILITY AND THE LIABILITY OF, THE UNDERLYING WIRELESS CARRIER OR ANY THIRD PARTY SERVICE PROVIDER WILL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY LAW.

## 13. Costs, Charges, Payments and Interest

- 13.1 You the Subscriber acknowledge that You have paid the Telematics Equipment Cost to enable use of the Telematics Equipment for the Subscription Period, and the Renewal period where applicable.
- 13.2 If for any reason We fail to provide the Services or any part of them for any period as a result of Force Majeure or third party dependency, our liability to You for any unpaid portion or any monies paid by You for the subscription period will be limited to the fullest extent permitted by law.
- 13.3 IN ADDITION TO ANY OTHER CHARGES THAT MAY BE PAYABLE UNDER THIS AGREEMENT, to the fullest extent permitted by law YOU WILL BE LIABLE TO PAY TO US ALL CHARGES AND COSTS (PLUS GST) ACTUALLY EXPENDED AND/OR INCURRED BY ARISING FROM:
- 13.3.1 A FALSE ALARM AND/OR ANY SERVICES PROVIDED BY US WHERE THE SUBSCRIBER FAILS TO COMPLY WITH ITS OBLIGATIONS UNDER THE TERMS OF THIS AGREEMENT, AND/OR
- 13.3.2 USE OF THE TELAMATICS SERVICES MADE KNOWINGLY OR UNKNOWINGLY BY THE SUBSCRIBER, ITS REPRESENTATIVE, USER OR DRIVER OR ANY OTHER PERSON GIVEN CONTROL OF AN ASSET WHICH RESULTS IN A FALSE ALARM OR RESPONSE BY US THAT IS NOT REQUIRED; AND/OR
- 13.3.3 TRANSPORTING MOVING, DRIVING, AND/OR SECURING AN ASSET(S), INCLUDING BUT NOT LIMITED TO TOWING CHARGES AND SIMILAR CARRIAGE CHARGES, TO A SAFE LOCATION SO THAT THE ASSET(S) IN OUR SOLE AND ABSOLUTE DISCRETION OF IS NOT CAPABLE OF MOVING UNDER ITS OWN PROPULSION.
- 13.4 You the Subscriber will be responsible for a reconnection fee (plus GST), as reasonably determined by US from time to time in the event of the reinstatement of any Telematics Services previously suspended, for example following a breach of this Agreement. You will also be liable for a once-off Subscription Renewal Charge.
- 13.5 Payment of all costs and fees in terms of this Agreement will be made by the You without demand, deduction or setoff of any nature free of exchange, and costs and other charges, and be made within seven (7) days of receipt by the Subscriber of an invoice from US.
- 13.6 Where You fail to meet Your obligations under the terms of this Agreement, You will be responsible for payment of all legal costs, on a solicitor and own client basis.
- 13.7 For so long as this Agreement remains in force You will not be entitled to withhold payment of any amounts due to Us hereunder for any reason whatsoever.
- 13.8 We, will be entitled in sole and absolute discretion to appropriate or allocate any payments received from or on behalf of You the Subscriber to any indebtedness of the Subscriber to us from whatsoever cause arising.
- 13.9 Should You fail to pay any amount due in terms of or arising from this Agreement on due date then such overdue amount will be interest at the rate applicable under the law applying to unpaid judgments in the Supreme Court of New South Wales, calculated from the due date of payment of such amount until the date of payment thereof.

## 13.10 Cost Increases and Disputes

13.11 THE COST OF YOUR SERVICE MAY CHANGE OVER TIME. IF YOU DO NOT AGREE TO THE CHANGE, YOU MUST TELL US IN WRITING WITHIN 30 DAYS OF THE DATE OF COMMUNICATION INFORMING YOU OF THE CHANGE. IF YOU FAIL TO OBJECT WITHIN THAT PERIOD, YOU WAIVE YOUR RIGHT TO DISPUTE THE CHANGE.

13.12 Cancellation in terms of clause 14.4 will not incur damages under clause 16.

## 14. Your Right to Cancel or Transfer your service

14.1 YOU CAN CANCEL YOUR SUBSCRIPTION AT ANY TIME BY CONTACTING US AT THE INFORMATION PROVIDED ON PAGE 1 OF THIS AGREEMENT. IF YOU WISH TO CANCEL YOUR AGREEMENT YOU MUST GIVE US THIRTY (30) DAYS WRITTEN NOTICE AND WE WILL HAVE THE RIGHT TO TURN OFF YOUR SERVICES. IF YOU CANCEL YOUR SUBSCRIPTION DURING THE INITIAL SUBSCRIPTION PERIOD YOU BECOME LIABLE FOR THE COSTS AS PROVIDED FOR IN CLAUSE 16.

14.2 YOU CANNOT TRANSFER YOUR SUBSCRIPTION TO ANOTHER ASSET. IF YOU SELL YOUR ASSET OR TERMINATE YOUR LEASE DURING THE SUBSCRIPTION AND/OR RENEWAL PERIOD, YOU MUST CANCEL YOUR SERVICES BY CONTACTING US. IF YOU SELL YOUR ASSET OR TERMINATE YOUR LEASE AND DO NOT NOTIFY US BY PHONE YOU WILL REMAIN RESPONSIBLE FOR ALL CHARGES FOR YOUR SUBSCRIPTION. THE NEW OWNER OF YOUR ASSET CANNOT ASSUME THE REMAINING PERIOD OF SERVICES UNDER YOUR TELEMATICS SUBSCRIPTION.

14.3 WE RESERVE THE RIGHT TO CANCEL YOUR SUBSCRIPTION IF WE LEARN THAT YOU HAVE SOLD YOUR ASSET AND FAILED TO NOTIFY US., IF YOU FAIL TO NOTIFY US OF A CHANGE OF ADDRESS, OR YOU FAIL TO REPLY TO A NOTIFICATION BY US REQUESTING AN UPDATE OF INFORMATION.

## 15. Our Right to Cancel or Suspend your Service

15.1 IF WE TERMINATE YOUR SUBSCRIPTION WITHOUT CAUSE, WE WILL GIVE YOU NOTICE THIRTY (30) DAYS PRIOR TO THE EFFECTIVE DATE OF TERMINATION AFTER WHICH YOUR ACCOUNT WILL BE DEACTIVATED AND YOUR SERVICES WILL TERMINATE. THIS MEANS THAT WE CAN DECIDE TO CEASE PROVIDING THE SERVICES TO YOU AT ANY TIME AND FOR ANY REASON, EVEN FOR REASONS UNRELATED TO YOU OR YOUR SUBSCRIPTION. IN SUCH A CASE THE AGREED DAMAGES OBLIGATION IN CLAUSE 16 DOES NOT APPLY.

15.2 We may terminate your Service Subscription without prior notice to You for any good cause. This means, for example, that we can terminate your Service immediately if you breach any part of this Agreement or do not pay amounts that are due to Us, interfere with Our efforts to provide the Services, interfere with our business, You notify Us that you no longer agree to Us collecting, holding or using Your Personal Data or if You use the Service for illegal or improper purposes. You do not have any right to have Your service reactivated, even if you cure any of these problems. We may, in Our sole and absolute discretion reactivate of Your service. We can suspend Your service for any reason or We could terminate it. If Your Service Subscription is terminated under this clause 15.2, then without limiting any of Our other rights, You must pay to us the Agreed Damages pursuant to clause 16.

## 16. Agreed Damages

- 16.1 SHOULD THE SUBSCRIBER TERMINATE THIS AGREEMENT OTHERWISE THAN PROVIDED FOR IN CLAUSE 14 THEN WE WILL BE ENTITLED TO CLAIM FROM THE SUBSCRIBER AS A GENUINE PRE-ESTIMATE OF THE DAMAGES SUFFERED BY US, AN AMOUNT EQUAL TO THE TOTAL TELEMATICS SERVICE COST OWING FOR THE UNEXPIRED PORTION OF THE SUBSCRIPTION PERIOD, COMMENCING FROM THE DATE OF TERMINATION UNTIL THE END OF THE INITIAL SUBSCRIPTION PERIOD. WHERE AN AMOUNT HAS BEEN PRE-PAID, THE SUBSCRIBER AGREES TO WAIVE ANY CLAIM FOR RECOVERY OF THE TELEMATICS SERVICE COSTS. WHERE THE AMOUNT OF AGREED DAMAGES ARE OWING BY MEANS OF A MONTHLY DEBIT AUTHORITY, THE SUBSCRIBER AGREES TO PAY THE FULL AMOUNT OWING FOR THE UNEXPIRED PORTION OF THE SUBSCRIPTION PERIOD, COMMENCING FROM THE DATE OF TERMINATION UNTIL THE END OF THE INITIAL SUBSCRIPTION PERIOD. THIS AMOUNT WILL BE DUE AND PAYABLE TO US WITHIN SEVEN DAYS OF THE DATE OF SUCH TERMINATION OR THE DATE ON WHICH THE SUBSCRIBER FALLS INTO ARREARS.

## 17. Refunds to You

- 17.1 If you cancel your subscription other than as a consequence of any breach of contract by us or breach of any of our obligations under the Australian Consumer Law, you forfeit your right to a refund.

## 18. Changes by You to Your Services

- 18.1 You are the only person who can request Us to activate Your subscription. However, any additional subscriber(s), designated by You in the Telematics Subscription Service Agreement, can cancel or change Your Subscription by contacting Us at the details provided above.

## 19. Changes by Us to Your Services

- 19.1 WE MAY CHANGE YOUR SERVICES AT ANY TIME AFTER GIVING YOU THIRTY (30) DAYS NOTICE. AFTER RECEIVING NOTICE YOU MAY CANCEL YOUR AGREEMENT OR AGREE TO THE CHANGE. IF YOU AGREE, YOU NEED DO NOTHING. IF HOWEVER YOU DO NOT AGREE, YOU MUST CANCEL YOUR AGREEMENT BY CONTACTING US WITHIN THIRTY (30) DAYS OF THE DATE OF OUR NOTICE TO YOU AND NO AGREED DAMAGES PURSUANT TO CLAUSE 16 WILL BE PAYABLE. IF YOU DO NOT CONTACT US TO CANCEL THE AGREEMENT, YOU ARE AGREEING TO THE CHANGE AND IT BECOMES PART OF THE AGREEMENT BETWEEN YOU AND US.



## 20. Ownership and control

- 20.1 You do not have any right in the wireless number assigned to Your system. We can change the number at any time.
- 20.2 OWNERSHIP OF THE TELEMATICS EQUIPMENT WILL NOT PASS TO YOU THE SUBSCRIBER. THE TELEMATICS EQUIPMENT COST IS PAID BY YOU TO US FOR USE ONLY DURING THE SUBSCRIPTION PERIOD AND THE RENEWAL PERIOD. UNDER NO CIRCUMSTANCES WILL THE TELEMATICS EQUIPMENT BE SUBJECT TO ANY THIRD PARTY LIEN.

## 21. Exclusion of Liability

- 21.1 You the Subscriber acknowledges and agree that notwithstanding anything to the contrary in this Agreement:
- 21.1.1 THE TELEMATICS SERVICES ARE INTENDED TO IMPROVE THE SECURITY OF PERSONS AND ASSETS, AND TO REDUCE THE RISK OF LOSS OF AN ASSET, ACKNOWLEDGING, THAT IT IS NOT POSSIBLE TO TOTALLY ELIMINATE SUCH RISK AND ACCEPTING THE RESIDUAL RISK.
- 21.1.2 UNDER NO CIRCUMSTANCES WILL WE BE LIABLE FOR AN ACT OR OMISSION OF A THIRD PARTY.
- 21.2 YOU ACKNOWLEDGE AND AGREE THAT TO THE FULLEST EXTENT PERMITTED BY LAW WE WILL NOT BE RESPONSIBLE FOR ANY LOSS OR DAMAGE EXPENSE SUFFERED BY YOU OR ANY THIRD PARTY RESULTING FROM USE OF THE EQUIPMENT AND/OR THE SERVICES

## 22. Third-Party Service Providers and Beneficiaries

- 22.1 We work with many different companies, individuals and government entities to provide the Services. In this Agreement, third party service provider means any person, company or entity which provides any service, system or facilities in connection with your services. We will use reasonable efforts to contact third party providers for help when You ask for it or when the System in your Asset signals for it, but we cannot promise prompt responses from the third party service providers. Any third party service provider involved in delivering your Services are intended third party beneficiaries of the protections of this Agreement, including but not limited to Your motor dealer and finance company, the underlying wireless carrier and their affiliates.
- 22.2 THIS AGREEMENT DOES NOT GIVE YOU ANY RIGHTS AGAINST ANY OF THE UNDERLYING WIRELESS CARRIERS OR OTHER THIRD PARTY SERVICE PROVIDERS. THE DISCLAIMERS, WARRANTIES, LIMITATIONS OF LIABILITY AND OTHER PROTECTIONS OF THIS AGREEMENT AND THE TELEMATICS SUBSCRIPTION AGREEMENT EXTEND TO THESE THIRD-PARTY BENEFICIARIES.

## 23. Indemnity

- 23.1 YOU THE SUBSCRIBER AGREE TO INDEMNIFY, DEFEND, AND HOLD US HARMLESS , OUR EMPLOYEES, AGENTS AND ADVISERS FROM AND AGAINST ANY CLAIM BY ANY PERSON HOWSOEVER ARISING, INCLUDING AS A RESULT OF THE BREACH OF THIS AGREEMENT,

INCLUDING ALL LEGAL COSTS. IF PERMISSIBLE UNDER APPLICABLE LAW, LEGAL COSTS WILL BE ON AN SOLICITOR AND OWN CLIENT BASIS.

## 24. Insurance

24.1 YOU ARE RESPONSIBLE FOR YOUR ASSET INSURANCE. THE SERVICES DO NOT PROVIDE YOU OR YOUR ASSET INSURANCE. THE SERVICE IS NOT AN INSURANCE PRODUCT. THE PAYMENTS YOU MAKE FOR YOUR SUBSCRIPTION SERVICES ARE NOT RELATED TO THE VALUE OF YOUR ASSET, THE PROPERTY IN IT, OR THE COST OF ANY INJURY TO OR DAMAGES SUFFERED BY YOU OR ANYONE ELSE.

## 25. Breach

25.1 IF YOU THE SUBSCRIBER:

25.1.1 BEACH A TERM OR CONDITION OF THIS AGREEMENT, OR

25.1.2 IN THE SOLE OPINION OF US RAISE A FALSE ALARM OR ABUSES THE SERVICES; AND

25.2 WE MAY, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN IMMEDIATELY SUSPEND OUR OBLIGATIONS UNDER THIS AGREEMENT WITHOUT NOTICE AND/OR CANCEL THIS AGREEMENT WITHOUT NOTICE AND WITHOUT ANY LIABILITY TO YOU. ANY SUCH SUSPENSION OR CANCELLATION WILL BE WITHOUT PREJUDICE TO ANY OTHER RIGHTS WHICH WE MAY HAVE AGAINST YOU AT LAW. UPON TERMINATION OF THIS AGREEMENT FOR WHATEVER REASON ALL AMOUNTS APPLICABLE BY YOU TO US WILL IMMEDIATELY BECOME DUE AND PAYABLE.

## 26. Telematics Equipment installation

- 26.1 You the Subscriber will not tamper with or transfer the Telematics Equipment to a different Asset from the one in which the Fitment Centre first installed it without Our prior written consent. We as the owner of the Equipment may give or withhold in consent in its sole and absolute discretion, and/or We may give consent subject to conditions as determined by in its sole and absolute discretion.
- 26.1.1 If We give prior written consent for the removal and/or transfer of Equipment, You the Subscriber will ensure that the removal and/or transfer is undertaken by a Fitment Centre; and
- 26.1.2 You will pay the Fitment Centre charges for removal and/or transfer and installation into a different Asset, and immediately advise Us of the details of the new Asset(s).
- 26.1.3 You will be required to pay for maintenance costs or new Equipment costs that fall outside the warranty period of the Equipment, listed on the Transaction Schedule on page 1 of this Agreement. We will advise if and when this is necessary if it becomes apparent that Our Control Center is not receiving communications from the Equipment.
- 26.1.4 You will be required to have a Fitment Center service, change or charge the battery in the Equipment at least one in every 36 months, or more frequently when advised to do so as provided for in 26.1.3. You will be responsible for the Fitment Centre costs relating to this maintenance.
- 26.2 YOU ACKNOWLEDGE AND AGREE THAT WE MAY REASONABLY REQUIRE PAYMENT OF CHARGES RESULTING FROM THE TRANSFER AND INSTALLATION OF EQUIPMENT INTO A DIFFERENT ASSET, SUCH AS A RE-ACTIVATION AND/OR ADMINISTRATION FEE.
- 26.3 In the event of transfer of Telematics Equipment to a different Asset, We will collaborate with You in updating the new Asset and the Information Services and Notification Preferences to this Agreement.

## 27. Warranties and Telematics Services

- 27.1 The services we provide you under this Agreement must be provided with acceptable care and skill or technical knowledge and taking all necessary steps to avoid loss and damage and be fit for purpose.
- 27.2 We supply a warranty on the Telematics Equipment in accordance with the term listed on the Transaction Schedule on page 1 of this Agreement.
- 27.3 The terms and conditions of such warranties are set out in Our warranty document. A copy of the warranty document is available on request.
- 27.4 However, neither , your Asset supplier, vehicle dealer, finance company nor any third party service provider is authorised to make any warranties, express or implied, about the services (including the content or other information delivered to you as part of the services), the wireless service used in connection with Your system, including any warranty of merchantability or fitness or for particular purpose.
- 27.5 All data and information is provided to you on an as is and when available basis and subject to the limitations described in this Agreement. This means that We make no warranties in connection with the information quality, accuracy, integrity, timeliness, completeness, correctness or reliability of the information,. All warranties with respect to the wireless service and any system used by third party service providers are expressly disclaimed and excluded from this Agreement.

## 28. Force Majeure

- 28.1 WE WILL NOT BE RESPONSIBLE TO YOU THE SUBSCRIBER FOR ANY FAILURE TO PERFORM OR FOR A DELAY IN PERFORMING AN OBLIGATION UNDER THIS AGREEMENT IN THE EVENT AND TO THE EXTENT THAT SUCH FAILURE OR DELAY IS CAUSED BY FORCE MAJEURE.
- 28.2 For the purposes of this Agreement, force majeure will mean any circumstance which:
- 28.2.1 Is beyond the reasonable control of the party giving notice of force majeure (affected party) and for which it is not responsible; and
- 28.2.2 It is not a circumstance which the affected party could by the exercise of the standard of care and skill which could reasonably be expected that party, have avoided.
- 28.3 Subject to the above force majeure includes but is not limited to including flood, fire, earthquake, war, tempest, hurricane, industrial action, government restrictions, computer virus, and malware resulting in Denial of Service Attacks (DoS and DDoS), ransomware or acts of God.
- 28.4 The affected party will give notice thereof to the other immediately upon the occurrence of any event of force majeure.

## 29. General

- 29.1 This Agreement together with the Privacy Policy and Warranty conditions incorporated into this agreement, contains all of the express provisions agreed to between Us and You the Subscriber

with regard to the subject matter hereof. No agreement varying, adding to, deleting from or cancelling this Agreement and no waiver of any right under this Agreement will be effective unless reduced to writing and signed by on behalf of the parties.

- 29.2 No relaxation by Us or You of any of our respective rights in terms of this Agreement will at any time prejudice or constitute a waiver of such right (unless it is a written waiver in terms of clause 29.1, and either Party it will be entitled to exercise its right thereafter as if such relaxation had not taken place.
- 29.3 You the Subscriber will not be entitled to assign or delegate Your rights or cede Your obligations under this Agreement without Our prior written consent. We have the right to assign or delegate Our rights or to cede Our obligations under this Agreement.
- 29.4 The rule of construction that the contract will be interpreted against the party responsible for the drafting or preparation of the agreement will not apply.

### **30. Notice to Parties in Relation to Telematics Services**

- 30.1 Where We are required to notify You of any matter arising from this Agreement (except the service of legal documents), such notice will be given by electronic notification, by email or at [www.whg-telematics.com.au](http://www.whg-telematics.com.au); [www.gridtraqcentral.com.au](http://www.gridtraqcentral.com.au); [www.gridtraq.com.au](http://www.gridtraq.com.au) ; and <https://default.gridtraqcentral.com/>, and/or Short Message Service (SMS/Text) to You or your Contact Person at the mobile telephone numbers provided when You registered or updated Your Subscriber Account..
- 30.2 WHEN WE CANNOT REACH YOU OR YOUR CONTACT PERSON AS PROVIDED FOR IN CLAUSE 30.1 WE WILL BE RELIEVED OF THE DUTY TO PROVIDE SUCH NOTICE.

## 31. Legal Notice

- 31.1 We choose for all purposes under this Agreement whether in respect of court process, notices, or other documents or communications of whatever nature, the address recorded in clause 1.1 of the Transaction Schedule on page 1 of this Agreement.
- 31.2 You choose for all purposes under this Agreement whether in respect of court process, notices, or other documents or communications of whatever nature, the address recorded in clause 1.3 of the Transaction Schedule on page 1 of this Agreement.
- 31.3 The laws of the State of New South Wales, Australia govern this agreement, and the parties submit to the non-exclusive jurisdiction of the Courts of that State.
- 31.4 Unless the context otherwise requires, any notice required or permitted to be given in terms of this Agreement will be valid and effective only if in writing.
- 31.5 Any notice to a party:
- 31.5.1 Sent by pre-paid registered post (by airmail if appropriate) will be deemed to have been received on the second business day after posting (unless the contrary is proved); or
  - 31.5.2 Notwithstanding anything to the contrary herein contained, a written notice of communication actually received by party will be an adequate written notice for communication to it notwithstanding that it was not sent or delivered in accordance with clause this Agreement.
  - 31.5.3 You the Subscriber agree and acknowledge that email and SMS messages sent by Us are deemed received only when receipt is confirmed. Email and other communications from will be deemed dispatched as and when reflected in our logs.

## 32. Subscriber Acceptance

- 32.1 Have You read and understood this of this Agreement?  
Privacy Policy and Personal Information, Use and Collection Statement  
Warranty document  
(Provide a YES and a NO click option).
- 32.2 Do You agree to the terms of this Agreement? (Provide a YES and a NO click option).
- 32.3 By clicking You agree to the terms of the Agreement that you clicked Yes to above and will be bound by your obligations. recorded therein.
- 32.4 Click 'I Agree" to accept this Agreement. (Provide a YES and a NO click option).